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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,792	11/02/2001	David Carroll Challenger	RPS920010134US1	6064

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/016,792	CHALLENGER, DAVID CARROLL	
	Examiner	Art Unit	
	Michael Pyzocha	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-24 are pending.
2. Appeal Brief filed 01/05/2006 has been received and considered. Based on the filed brief prosecution is hereby reopened.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The term "approximately" in claims 1, 6, and 11 and "approximate" in claims 16, 19, and 22 are a relative term which renders the claim indefinite. The terms "approximately" and "approximate" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

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6. The phrase "capturing an Internet Protocol" in claims 17, 20, and 23 is indefinite because it is unclear what Internet Protocol is referring to. For the purpose of examination it will be assumed to mean "Internet Protocol address".

7. Any claims not specifically addressed are rejected by virtue of their dependencies.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 16, 18-19, 21-22 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Franken et al (US 20030097654).

As per claims 16, 18-19, 21-22 and 24, Franken et al discloses transmitting a broadcast over the Internet within a defined distribution area, comprising the steps of: receiving a

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request to transmit said broadcast from a requester; determining an approximate physical location of said requester (see paragraph 19 lines 1-12); and transmitting said broadcast over the Internet to said requester if said requester is physically located approximately within said defined distribution area (see paragraph 19 last 7 lines); and not transmitting the broadcast is not located in the location (see paragraph 17).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pezzillo et al (US 6434621), in view of Teare et al (US 5243652).

As per claims 1, 6 and 11, Pezzillo et al discloses encoding a radio broadcast into digital packets of information;

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transmitting said digital packets of information over the Internet (see column 5 lines 60-67).

Pezzillo et al fails to disclose encrypting the packets to restrict access to a defined distribution area and broadcasting the decryption key to the defined area.

However, Teare et al teaches encrypting data and restricting access to said data to a defined distribution area and broadcasting a key (see figure 1 and column 2 lines 11-63).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Teare et al's method of restriction access to a specific location using encryption in Pezzillo et al's Internet radio broadcasting system.

Motivation to do so would have been to provide location-sensitive control over remote or mobile systems in a secure manner, without requiring secure facilities for the remote or mobile node (see column 1 lines 34-37).

As per claims 2, 7, and 12, the modified Pezzillo et al and Teare et al system discloses receiving said decryption key by one or more users of computer systems located approximately within said defined distribution area of said broadcaster (see Teare et al column 2 lines 11-63).

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As per claims 3, 8, and 13, the modified Pezzillo et al and Teare et al system discloses decrypting said encrypted digital packets of information using said decryption key (see Glick et al paragraph 119).

As per claims 4, 9, and 14, the modified Pezzillo et al and Teare et al system fails to disclose reproducing said decrypted digital broadcast by an audio transducer. However, Official Notice is taken that at the time of the invention it would have been obvious to a person of ordinary skill in the art to use an audio transducer to reproduce the digital broadcast. Motivation to do so would have been to allow the receiver to hear the digital broadcast.

As per claims 5, 10, and 15, the modified Pezzillo et al and Teare et al system discloses the key is broadcast using electromagnetic waves (see Teare et al column 2 lines 11-63).

12. Claims 17, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al as applied to claims 16, 19 and 22 above, and further in view of Schlossberg et al (US 20020066034).

As per claims 17, 20 and 23, Franken et al fails to disclose the step of determining said approximate physical location of said requester comprises the steps of: capturing an

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Internet Protocol of said requester; converting said captured Internet Protocol of said requester into a computer name; and performing a trace of said request.

However, Schlossberg et al teaches these limitations (see paragraph 54).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Schlossberg et al's method of tracing to determine the location in the Franken et al system.

Motivation to do so would have been to determine the physical location of a device on the Internet (see paragraph 54).

Response to Arguments

13. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maillard et al

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(US 6466671 B1), Sheldrick et al (US 5506904 A), Bednarek et al (US 5621793 A), Rubin et al (US 6108365 A), Swain et al (US 20010047516 A1), and Paravia et al (US 6508710 B1) teach methods of restricting access to information based on location.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER